

JEFFREY DURANTE, ON BEHALF OF HIMSELF, FLSA COLLECTIVE
 PLAINTIFFS AND CLASS MEMBERS

Plaintiff(s)

Index # 11 CIV 9024 (SWEET)

- against -

Purchased December 9, 2011

KELLNER DILEO & CO., LLC, ETAL

Defendant(s)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK: COUNTY OF NEW YORK ss:

ANGEL GUTIERREZ BEING DULY SWORN DEPOSES AND SAYS DEPONENT IS NOT A PARTY TO THIS ACTION, OVER THE AGE OF EIGHTEEN YEARS AND RESIDES IN THE STATE OF NEW YORK.

That on December 19, 2011 at 12:10 PM at

C/O KELLNER DILEO & CO., LLC
 900 THIRD AVENUE
 SUITE 1000
 NEW YORK, NY 10022

deponent served the within SUMMONS AND COMPLAINT on GEORGE KELLNER therein named,

**SUITABLE
 AGE**

by delivering thereat a true copy of each to RON ERSTER a person of suitable age and discretion. Said premises is Defendant's actual place of business within the state. He identified himself as the CO-WORKER of the Defendant.

Deponent further states that he describes the person actually served as follows:

Sex	Skin Color	Hair Color	Age (Approx.)	Height (Approx.)	Weight (Approx)
MALE	WHITE	WHITE	52	5'9	175

GLASSES

MAILING

Deponent enclosed a copy of same in a postpaid wrapper properly addressed to the Defendant at the Defendant's actual place of business at

C/O KELLNER DILEO & CO., LLC
 900 THIRD AVENUE
 SUITE 1000
 NEW YORK, NY 10022

and deposited said wrapper in a post office or official depository under exclusive care and custody of the United States Postal Service within New York State on December 22, 2011 by REGULAR FIRST CLASS MAIL in an envelope marked PERSONAL & CONFIDENTIAL and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served.

**MILITARY
 SERVICE**

Person spoken to was asked whether the Defendant was in the military service of the State of New York or the United States and received a negative reply. Upon information and belief based upon the conversation and observation as aforesaid deponent avers that the Defendant is not in the military service of the State of New York or the United States as that term is defined in the statutes of the State of New York or the Federal Soldiers and Sailors Civil Relief Act.

That at the time of such service deponent knew the person so served as aforesaid to be the same person mentioned and described as the Defendant in this action.

Sworn to me on: December 22, 2011

RALPH MULLEN
 Notary Public, State of New York
 No. 01MU6238632
 Qualified in New York County
 Expires April 11, 2015

JOSEPH KNIGHT
 Notary Public, State of New York
 No. 01KN6178241
 Qualified In New York County
 Expires November 26, 2015

JONATHAN GRABER
 Notary Public, State of New York
 No. 01GR6156780
 Qualified in New York County
 Expires December 4, 2014

ANGEL GUTIERREZ
 License #: 1152171
 Invoice #: 544803